

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

TYREE S. PARSON,

Petitioner, : Case No. 3:14-cv-414

- vs -

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

ERNIE MOORE, Warden,

:
Respondent.

DECISION AND ORDER DENYING STAY OF PROCEEDINGS

This habeas corpus case is before the Court on Petitioner's Motion to Stay Proceedings until ninety days after he obtains a copy, at State expense, of the full state court record, including the trial transcripts (Doc. No. 4, PageID 53). He advises that he has requested those documents from the Montgomery County Common Pleas Court, that his request has been denied, and that he has appealed to the Second District Court of Appeals. In denying his request, Judge Dankof found that the complete record had already been filed with the Second District and remained on file in that court (*State v. Parson*, Order of June 24, 2014, available on the website of the Montgomery County Clerk of Courts). So far as this Court is aware, there is no legal requirement for the State to furnish a second free copy of trial transcripts, much less the whole case file, so it seems very unlikely Parson's appeal will be successful.

Moreover, the Report and Recommendations whose consideration Parson seeks to have stayed found is claims in this case were procedurally defaulted because he never appealed to the Ohio Supreme Court from affirmance of his conviction by the Second District. The Magistrate

Judge offered an alternative analysis on the merits, and if Parson intends to show the Second District got the facts wrong, he might need the transcripts to do that. But he needs no transcripts to respond to the procedural default analysis: either he timely appealed to the Ohio Supreme Court or he did not.

For the foregoing reasons, the Motion to Stay is DENIED.

December 17, 2014.

s/ *Michael R. Merz*
United States Magistrate Judge